



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/051,881	01/18/2002	Albert E. Johnson	4500-7 (04500.0012.6)	7900
30166	7590	10/03/2003	EXAMINER	
WOMBLE CARLYLE SANDRIDGE & RICE PLLC			BOYD, JENNIFER A	
300 N. GREENE STREET			ART UNIT	
SUITE 1900			PAPER NUMBER	
GREENSBORO, NC 27401			1771	

DATE MAILED: 10/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/051,881	JOHNSON ET AL.	
	Examiner	Art Unit	
	Jennifer A Boyd	1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>1 page</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1 - 8 and 14 – 21 are rejected under 35 U.S.C. 102(e) as being anticipated by Gatto (US 6,539,898).

Gatto is directed to protective covers for animals such as blankets and turnout tugs for horses (column 1, lines 10 – 15).

As to claim 1, Gatto teaches a multilayered blanket (see Figure 2). Gatto teaches a blanket comprising an *outer layer of mesh material* 48, a *layer of waterproof material* 46 and a *layer of quilted insulated sheet* 44 (column 4, lines 60 – 68 and column 5, lines 1 – 15). Gatto teaches that the *mesh material*, equated to Applicant's "outer woven fabric layer", comprises a woven fabric manufactured with an *inner fiber* 70 coated with an *outer sheath* of polyvinyl chloride 72 (see Figure 4 and column 3, lines 55 – 61). In a preferred embodiment, the *inner fiber* is a high strength polyester fiber (column 4, lines 1 – 4). Gatto teaches that the *layer of waterproof material*, equated to Applicant's "adhesive waterproofing layer" can be laminated to the other layers (column 5, lines 5 – 12), thus acting as an adhesive securing the layers together. Gatto teaches that the layer of quilted insulated sheet, equated to Applicant's "inner fabric layer", is made of cotton (column 5, lines 1 – 5).

Art Unit: 1771

As to claims 2 - 4 and 6 - 7, Gatto teaches that the inner fiber of the coated yarn of high-strength polyester is coated by extrusion with PVC (column 4, lines 1 - 5).

As to claims 5 and 8, Gatto teaches that *outer layer of mesh material* has a yarn denier of 1000 to 2000 (column 4, lines 55 - 60). Therefore, the denier of the core component would be in the range of less than 1,000 to 2000 denier.

As to claim 14, Gatto teaches a multilayered blanket (see Figure 2). Gatto teaches a blanket comprising an *outer layer of mesh material* 48 (column 4, lines 60 - 68 and column 5, lines 1 - 15). Gatto teaches that the *mesh material*, equated to Applicant's "woven fabric layer", comprises a woven fabric manufactured with an *inner fiber* 70 coated with an *outer sheath* of polyvinyl chloride 72 (see Figure 4 and column 3, lines 55 - 61).

As to claims 15 - 17 and 19 - 20, Gatto teaches that the inner fiber of the coated yarn of high-strength polyester is coated by extrusion with PVC (column 4, lines 1 - 5).

As to claims 18 and 21, Gatto teaches that *outer layer of mesh material* has a yarn denier of 1000 to 2000 (column 4, lines 55 - 60). Therefore, the denier of the core component would be in the range of less than 1,000 to 2000 denier.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 1771

4. Claims 9 - 10, 13, 22 - 23 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gatto (US 6,539,898) in view of Druckman et al. (US 4,996,100).

Gatto teaches the claimed invention above but fails to disclose that the *mesh material*, or Applicant's "woven layer", can also include effect yarns selected from the group of acrylics, modacrylics, polypropylene, polyethylene and polyester as required by claims 9 and 22. Gatto fails to teach that the coated yarn content is at least 50% as required by claims 10 and 23. Gatto fails to teach that the coated yarn is introduced in both the warp and fill in a pattern alternating with effect yarns as required by claims 13 and 26.

Druckman is directed to improved fabrics suitable for use outside exposed to environmental elements (column 1, lines 1 - 8). Druckman teaches the alternating of vinyl and soft fabrics yarns in the warp direction and filling direction of a woven fabric (Abstract). Druckman notes that the resulting fabric has the durability characteristics of the vinyl while possessing soft characteristics provided by the soft fabric yarns (Abstract). Druckman teaches that suitable soft fibers may be modacrylics, acrylics, polypropylene, polyethylene and polyesters (column 2, lines 35 - 37). By examining Figure 2, it is shown that the majority of the yarns in the woven fabric are vinyl yarns rather than the soft yarns.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the effect yarns of Druckman in an alternating fashion as suggested by Druckman in the mesh fabric of Gatto motivated the desire to create a fabric with high durability provided by the vinyl yarns and soft characteristics provided by the effect yarns in addition to creating an aesthetically pleasing fabric.

Art Unit: 1771

5. Claims 9, 11 – 12, 22 and 24 – 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gatto (US 6,539,898) in view of Swers et al. (US 6,557,590).

As to claims 9, 11, 22 and 24, Gatto teaches the claimed invention above but fails to disclose that the *mesh material*, or Applicant's "woven layer", can also include effect yarns selected from the group of acrylics, modacrylics, polypropylene, polyethylene and polyester as required by claims 9 and 22. Gatto fails to teach that the coated yarn is introduced in the fill alone as required by claims 12 and 25.

Swers directed to fabrics that are used for outdoor applications such as outdoor cushion upholstery, tents, awnings and marine applications (column 1, lines 24 – 33). Swers teaches that the fabric comprises a woven structure formed of warp effect yarns and self-coating yarns formed of high melt and low melt yarn constituents in at least part or all of the fill (column 1, lines 10 – 22). Therefore, in one embodiment, Swers teaches that the woven structure can comprise warp effect yarns in the warp direction and only self-coating yarns in the fill direction.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the effect yarns in the pattern as suggested by Druckman in the mesh fabric of Gatto motivated the desire to create a fabric with abrasion resistance, load/elongation recovery, firm hand and weave stability while having an aesthetically pleasing looking.

As to claims 11 and 24, Gatto in view of Swers discloses the claimed invention except for that the coated yarn is introduced in the warp alone. It would have been obvious to one having ordinary skill in the art at the time the invention was made to create a fabric with coated yarn introduced in just the warp alone, since it has been held to be within the general skill of a worker


Art Unit: 1771

in the art to select a pattern of yarns on the basis of its suitability for the intended use as a matter of design choice.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer A Boyd whose telephone number is 703-305-7082. The examiner can normally be reached on Monday thru Friday (8:30am - 6:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.


Jennifer Boyd
September 26, 2003

